

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-04-SJ-042
	)	
Clamor Broadcasting Network Inc.	)	NAL/Acct. No.200532680001
Licensee of WJVP-FM	)	
P.O. Box 40000	)	FRN 0008403388
Bayamon, PR 00958	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released:** November 16, 2004

By the Resident Agent, San Juan Office, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Clamor Broadcasting Network Inc. (“Clamor”), licensee of radio station WJVP-FM, Culebra, Puerto Rico, apparently liable for a forfeiture in the amount of fifteen thousand dollars (\$15,000) for willful and repeated violation of Sections 11.35 and 73.1125 of the Commission's Rules (“Rules”).<sup>1</sup> Specifically, we find Clamor Broadcasting Network Inc. apparently liable for not having installed the required Emergency Alert System (“EAS”) equipment and not maintaining the station’s main studio within the community of license, within the principal community contour, or within twenty-five miles from the reference coordinates of the center of its community of license.

**II. BACKGROUND**

2. In March of 2000, an agent from the Commission’s San Juan, Puerto Rico Resident Agent Office (“San Juan Office”) inspected radio station WJVP-FM. The San Juan Office issued to Clamor a Notice of Violation for failure to maintain a main studio in violation of Section 73.1125 of the Rules and failure to maintain operational EAS equipment in violation of Section 11.35 of the Rules.

3. On August 11, 2004, an agent from the San Juan Office inspected radio station WJVP-FM at their studio located on Granada Street, Urb. Alahambra, Bayamon, Puerto Rico. The station did not have the required EAS equipment installed. According to the operator, the station’s engineer had removed it during March or April of this year. When the agent requested to see the EAS log the operator provided a log that appeared to belong to another station WKVN-FM, Levittown, Puerto Rico. This log reflected the last test was performed on March 10, 2004. The station’s only studio was located on Granada Street, Urb. Alahambra, Bayamon, Puerto Rico, outside of Culebra, the station’s community of license, approximately 16 miles outside the station’s principal community contour, and more than 25 miles (approximately 65 miles) from the reference coordinates of the center of its community of license.

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<sup>1</sup> 47 C.F.R. §§ 11.35 & 73.1125.

### III. DISCUSSION

4. Section 11.35 requires that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS be installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. On August 11, 2004 an agent from the San Juan office inspected WJVP's studio and found no EAS equipment installed. The equipment had been removed from service by the station engineer at least four months prior to the inspection. No EAS logs for station WJVP-FM were available showing the equipment had been removed for repair or replacement, or providing explanation for failure to conduct EAS tests. The San Juan Office notified Clamor of a similar violation in April of 2000.

5. Section 73.1125 Broadcast stations shall maintain a studio within the station's community of license, within the principal community contour or within twenty-five miles from the reference coordinates of the center of its community of license. At the time of inspection the station's studio was located on Granada Street, Urb. Alahambra, Bayamon, Puerto Rico, which is more than 25 miles from the community of license and 16 miles outside the principal community contour. The San Juan Office notified Clamor of a similar violation in April of 2000.

6. Based on the evidence before us, we find Clamor Broadcasting Network Inc. willfully<sup>2</sup> and repeatedly<sup>3</sup> violated Sections 11.35 and 73.1125 of the Rules by failing to have installed the required EAS equipment and for not maintaining the station's studio within its community of license, within the principal community contour or within twenty-five miles from the reference coordinates of the center of its community of license.

7. Pursuant to Section 1.80(b)(4) of the Rules,<sup>4</sup> the base forfeiture amount for failure to have installed the required EAS equipment is eight thousand dollars (\$8,000) and for main studio violations is seven thousand dollars (\$7,000).

8. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>5</sup> Considering the entire record and applying the factors listed above, this case warrants a \$15,000

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<sup>2</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . ." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

<sup>3</sup> The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

<sup>4</sup> 47 C.F.R. § 1.80(b)(4).

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

forfeiture.

#### IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>6</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>7</sup> Clamor Broadcasting Network Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of fifteen thousand dollars (\$15,000) for willful and repeated violation of Section 11.35 and 73.1125 of the Rules by failing to install the required EAS equipment and failure to maintain the station's studio within the community of license, within the principal community contour or within twenty-five miles from the reference coordinates of the center of its community of license.

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Clamor Broadcasting Network Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by check or similar instrument, payable to the order of the Federal Communications Commission. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, IL 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259. The payment should note *NAL*/Acct. No. 200532680001, and FRN 0008403388. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivable Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

12. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Room 762, Federal Building, San Juan, PR 00918-1731 and MUST INCLUDE THE *NAL*/Acct. No. referenced above.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and

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<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

<sup>8</sup> See 47 C.F.R. § 1.1914.

Certified Mail Return Receipt Requested to Clamor Broadcasting Network Inc., P.O. Box 40000, Bayamon,  
PR 00958

FEDERAL COMMUNICATIONS COMMISSION

William Berry  
San Juan Office, Enforcement Bureau